

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

APPEAL NO. 23-13670-J

UNITED STATES OF AMERICA and THE STATE OF FLORIDA *ex rel.*  
ROBERT V. SMITH,  
Appellants,

v.

JAY A. ODOM and OKALOOSA COUNTY,  
BOARD OF COUNTY COMMISSIONERS,  
Appellees.

Appeal from the United States District Court for the  
Northern District of Florida, Pensacola Division

No. 3:20-cv-03678/MCR/ZCB

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**APPELLANTS, UNITED STATES OF AMERICA AND  
THE STATE OF FLORIDA *ex rel.* ROBERT V. SMITH’S  
MOTION TO RESCHEDULE/POSTPONE ORAL ARGUMENT**

Appellant, United States of America and The State of Florida *ex rel.* Robert V. Smith (“Appellant Smith”), files this Motion to Reschedule/Postpone Oral Argument pursuant to Federal Rule of Appellate Procedure 34(b), and in support states as follows:

1. On February 1, 2024, Appellant Smith filed in this action a Notice of Related Case (Dkt. #24), notifying the Court that on January 13, 2024, a Part 16 action was filed with the United States of America Federal Aviation Administration

(“FAA”) styled *Robert V. Smith v. Okaloosa County, Florida* (the “FAA Part 16 Case”) involving some of the same issues as this appeal. On January 30, 2024, the FAA served a Notice of Docketing assigning the case Docket No. 16-24-01.

2. The FAA Part 16 Case is fully briefed.

3. The procedural timeline to receive a Director’s Determination in an FAA Part 16 case is typically 120 days after the date the last pleading was due. *See* 14 CFR § 16.31(a).

4. On or about September 10, 2024, the FAA filed a Notice of Extension in the FAA Part 16 Case. *See* Exhibit 1.

5. The Notice of Extension states that “[a]dditional time is necessary and appropriate for a fair and complete consideration of the matters before the agency.”

6. The Notice of Extension further states that “pursuant to 14 CFR part 16, subpart B, the date by which the Director’s Determination will be issued in this matter is hereby **EXTENDED** to and including November 1, 2024.”

7. In other FAA Part 16 cases, the FAA has issued multiple extension notices depending on the complexity of issues. At present, it is unknown if the FAA will seek a further extension past November 1, 2024.

8. Oral argument in this case is currently set for the week of December 14, 2024.

9. Appellant Smith seeks to postpone/reschedule oral argument to allow adequate time for the FAA to issue its Director's Determination in the FAA Part 16 Case and for Appellant Smith to submit the FAA Director's Determination to this Court for consideration as supplemental authority.

10. As reflected in Appellant Smith's briefs and his Notice of Related Case, the FAA Director's Determination in the FAA Part 16 Case is relevant to the issues in this case, particularly the issue of materiality.

11. The relief sought in this Motion is not for purposes of delay.

Respectfully submitted this 4<sup>th</sup> day of October 2024.



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*Attorney for Appellants*

**CERTIFICATE OF CONFERENCE**

The undersigned has conferred with counsel for Appellees, Okaloosa County and Jay Odom, and Appellees do not object to the relief sought herein.

*/s/ Elizabeth C. Billhimer*  
ELIZABETH BILLHIMER

**CERTIFICATE OF COMPLIANCE AS TO WORD COUNT**

This Motion complies with the type-volume limitations of Fed. R. App. P. 27(d) and Fed. R. App. 32(c) because this Motion contains 400 words, excluding the elements of the Motion exempt by Fed. R. App. P. 32(f).

*/s/ Elizabeth C. Billhimer*  
ELIZABETH BILLHIMER

**CERTIFICATE OF INTERESTED PERSONS AND  
CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1 and 11<sup>th</sup> Circuit Rule 26.1-1 and 11<sup>th</sup> Circuit Rule 26.1-4, Appellants, United States of America and The State of Florida *ex rel.* Robert V. Smith file this Certificate of Interested Persons and Corporate Disclosure Statement.

**I. Disclosure Pursuant to L.R.A.P. 26.1-1:**

- A. Beard, Esq., Amelia Hallenber
- B. Billhimer, Esq., Elizabeth C.
- C. Bolitho, The Honorable Zachary C.

- D. Boyles, Commissioner Nathan
- E. Goodwin, Commissioner Trey
- F. Gordon, III, Esq. A. Benjamin
- G. Hoshihara, Esq. Lynn M.
- H. Hunt, Esq., Nathaniel H.
- I. Izzo, Esq., Anne Nicole
- J. Ketchel, Commissioner Carolyn
- K. Kirsch, Esq., Peter J.
- L. Knight, Esq., Christopher A.
- M. Mixon, Commissioner Paul
- N. Odom, Jay A.
- O. Okaloosa County Board of County Commissioners
- P. Okaloosa County, Florida
- Q. Parsons, Esq. Kerry A.
- R. Patronis, Jimm – FL Dept. of Financial Services
- S. Ponder, Commissioner Mel
- T. Rodgers, The Honorable M. Casey
- U. Schofield, Esq., Michael J.
- V. Shaud, Esq., Matthew Reed
- W. Smith, Robert V.

X. Sobotkin, Esq., David M.

Y. State of Florida, The

Z. Stewart, Esq., Gregory T.

AA. United States of America

BB. Wilbanks, Esq., Sarah

**II. Disclosure Pursuant to F.R.A.P. 26.1 (Parent Corporation and Publicly Held Corporations that Own 10% of More of Appellee's Stock):**

A. None.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been electronically filed with the Eleventh Circuit Court of Appeals and served electronically to all counsel of record under 11<sup>th</sup> Circuit Local Rule 25-3(a), this 3<sup>rd</sup> day of October 2024. Additionally, copies have been mailed via first class U.S. mail, postage prepaid on this 4<sup>th</sup> day of October 2024 to the following:

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ELIZABETH C. BILLHIMER

UNITED STATES DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
WASHINGTON DC

ROBERT V. SMITH,  
  
COMPLAINANT,  
  
v.  
  
OKALOOSA COUNTY, FLORIDA,  
  
RESPONDENT.



FAA Docket No. 16-24-01

**NOTICE OF EXTENSION**

This matter is before the Federal Aviation Administration (FAA) based on the above-referenced complaint, filed in accordance with *FAA Rules of Practice for Federally-Assisted Airport Enforcement Proceedings*, 14 CFR part 16 (Rules of Practice). Additional time is necessary and appropriate for a fair and complete consideration of the matters before the agency. Accordingly, pursuant to 14 CFR part 16, subpart B, the date by which the Director's Determination will be issued in this matter is hereby **EXTENDED** to and including **November 1, 2024**.

**MICHAEL**  
**PRICE**

Digitally signed by  
MICHAEL PRICE  
Date: 2024.09.09  
17:15:58 -04'00'

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Michael B. Price  
Manager, Office of Airport Compliance  
and Management Analysis



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on September 10, 2024, I caused to be emailed and/or to be placed in the Federal Express a true copy of the foregoing Notice of Extension of Time for FAA Docket No. 16-24-01 addressed to:

**FOR THE COMPLAINANT**

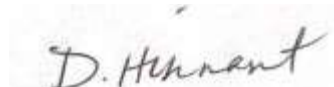
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**FOR THE RESPONDENT**

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epilsk@kaplankirsch.com  
agerchick@kaplankirsch.com

**Copy to:**

FAA Part 16 Airport Proceedings Docket (AGC-600)  
FAA Airport Compliance and Management Analysis (ACO-100)  
FAA Southern Region Airports Division (ASO-620)

  
\_\_\_\_\_  
Danielle Hinnant  
Office of Airport Compliance  
and Management Analysis